

REMARKS

A Request for Continuing Examination, Information Disclosure Statement (IDS) and Request for Extension of time, as well as payments for the applicable fees, accompany the present Amendment. The Examiner previously indicated that the Information Disclosure Statement (IDS) was not considered because a statement under 37 CFR 1.97(e) was omitted. Accordingly, Applicants request consideration of the new IDS filed herewith.

Claims 1-33 were rejected. Claims 1, 16, 29 and 32-33 have been amended. Claims 30-31 are cancelled. Applicants respectfully request reconsideration of claims 1-29 and 32-33, as amended, in view of the following Remarks.

Claims 1-5, 8, 11-14, 16-18, 21-22 and 25-28 were rejected under 35 USC §103(a) as being unpatentable over Sheikh 6,266,721 in view of Richman 6,655,148. Applicants traverse this rejection and request reconsideration in view of these Remarks.

Examiner Failed to Meet Burden of Production for Prima Facie Case of Obviousness Because Each Reference is Not Pertinent

First, Applicants respectfully submit that the Office, acting through the Examiner, has failed to demonstrate all elements necessary to establish a prima facie case of obviousness under Section 103 and, accordingly, patentability of the subject matter is thus established. See, e.g., *In re Dillon*, 919 F.2d 688, 16 USPQ2d 1897, 1908 (Fed. Cir. 1990) (en banc). The Examiner bears the initial burden of presenting a prima facie case of obviousness (*Ex Parte Skinner*, 2 USPQ2d 1788, 188-89 (B.P.A.I. 1986)). Specifically, when obviousness is at issue, the examiner has the burden of persuasion and therefore the initial burden of production. Satisfying the burden of production, and thus initially the burden of persuasion, constitutes the so-called prima facie showing. See, e.g., *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443, 1447 (Fed. Cir. 1992). Courts, including the Federal Circuit, have recently held that a patent applicant can attack the Examiner's prima facie case as improperly made out. *In re Fritch*, 972 F.2d 1260, 23 USPQ 2d 1780, 1783 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 223 USPQ 785, 788 (Fed. Cir. 1984); *In re Warner*, 379 F.2d 1011, 154 USPQ 173, 177 (C.C.P.A. 1967), cert. denied, 389 U.S. 1057 (1968). The recent Supreme Court decision in *KSR* did not shift to the applicant any part of the Patent Office's initial burden. Accordingly, the Examiner still bears the initial burden of presenting a prima facie case of obviousness. (*Ex Parte Skinner, supra.*) Because the Examiner has failed to produce

evidence sufficient to support all elements required to establish a prima facie case of obviousness, the Applicants have no need to adduce rebuttal evidence of unobviousness (See, e.g., *In re Dillon*, 919 F.2d 688, 16 USPQ2d 1897, 1908 (Fed. Cir. 1990)).

In regard to the foregoing argument, the Applicants submit that the Examiner has failed to produce any evidence of the following limitations specified in claim 1, as amended:

- i. A method for collecting legacy data from a legacy surveillance system
- ii. transmitting the legacy data to an intelligent surveillance system
- iii. the legacy data including information from a plurality of legacy sensors
- iv. reading legacy output data, the legacy output data including a serial data string, the legacy output data being output from the legacy surveillance system without introducing a signal into the legacy surveillance system
- v. transmitting the legacy output data into a data capture application of an intelligent surveillance system without sending a signal to the legacy surveillance system
- vi. managing the legacy output data via the intelligent surveillance system.

The cited references, Sheikh and Richman, clearly do not disclose, teach or suggest: "A method for collecting legacy data from a legacy surveillance system", or any of the other elements set forth in the preceding sentence, as specified in claim 1. Clearly, the first meaningful dispute or issue here is whether one having an ordinary level of skill in the relevant art would be charged with knowledge of either Sheikh or Richman. Sheikh discloses microcontroller operation of computer components, and one of the internal boards is referred to as a "legacy device". Richman discloses automatic configuration of a network adapter onboard a computer. The Examiner explains that the inventor's field of endeavor is "computing systems" (Final OA mailed 2/28/2007, page 4, lines 2-4). Applicants respectfully assert that this assertion by the Examiner is clearly incorrect, and that the present Applicants cannot reasonably be charged with knowledge of all computing systems.

In order to be considered as a basis for rejecting subject matter as being obvious, cited references must be "available" to the inventor (i.e., one of ordinary skill in the art having complete knowledge of the relevant prior art) at the time of the invention by virtue of being in the same field of the inventor's endeavor or by being reasonably pertinent to the specific problem with which the inventor was involved. In other words, it must be reasonable to

charge a hypothetical inventor with the responsibility of inquiring into, and thus having knowledge of, the subject matter of the reference. The Federal Circuit has reminded the PTO: "that it is necessary to consider "the reality of the circumstances" – in other words, common sense – in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor. *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443, 1446 (Fed. Cir. 1992) (quoting *In re Wood*, 599 F.2d 1032, 1036, 202 USPQ 171, 174 (C.C.P.A. 1979)). The rule precluding rejections based on combinations of teachings of references from non-analogous arts is based on the realization that an inventor could not possibly be aware of every teaching in every art. *In re Wood*, 599 F.2d 1032, 202 USPQ 171, 174 (C.C.P.A. 1979) (citing *In re Antle*, 444 F.2d 1168, 1171-72, 170 USPQ 285, 287-88 (C.C.P.A. 1971)).

The inquiry whether fields of endeavor are analogous art or non-analogous art is a threshold inquiry which must be resolved before the Examiner can undertake a "functional approach" analysis under *Hotchkiss* and *Graham v. John Deere*. *Wang Lab v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767, 1773 (Fed. Cir. 1993); *C&A Potts & Co. v. Creager*, 155 U.S. 597, 607-08 (1895). This threshold inquiry remains necessary even under the seemingly expansive rationale set forth in *KSR Int'l Co. v. Teleflex Inc.* Unfortunately, the *KSR* decision did not expressly discuss this threshold issue, because this threshold inquiry was easily met under the facts of the *KSR* case. In *KSR*, the cited art involved mechanical automotive pedals, and the claimed subject matter clearly involved related subject matter of automatic pedals. The same cannot be said in the present circumstances. Applicants respectfully submit that the Examiner cannot reasonably regard and cite the *Sheikh* and *Richman* references in the field of "computing systems" as being pertinent prior art to "surveillance systems" of the present application and, specifically, claims 1-15.

The Federal Circuit has clarified how to determine whether a reference is reasonably pertinent to the particular problem with which the inventor was involved and, thus, part of the analogous prior art which can be cited to reject claimed subject matter as being obvious. As explained by the Federal Circuit: a reference is reasonably pertinent if ... it is one which, because of the matter with which it deals, logically would have commended itself to the inventor's attention in considering his problem... If a reference disclosure has the same purpose as the claimed invention, the reference relates to the same problem... If it is directed to a different purpose, the inventor would accordingly have had less motivation or occasion

to consider it. *In re* Clay, 966 F.2d 656, 23 USPQ2d 1058, 1060-61 (Fed.Cir. 1992). Certain general principles in the prior art can cross related fields and be considered within the general field of the invention. *In re* Metz, Civ.App. 97-1263 (Fed.Cir. Sept. 22, 1998)(unpublished). In Metz, the pertinent field was the use of filters to perform spectroscopy, and a reference from one subfield of spectroscopy (solar control films) was considered to be pertinent to an invention in another subfield of spectroscopy, because the use of holographic filters was an overriding principle which would find such broad-based applicability in the general field of spectroscopy and be considered because of cross-fertilization of the subfields in spectroscopy. Prior art references that are not in the field of the invention can also be used by an Examiner to show obviousness when the references are reasonably pertinent to the problem facing the inventor. *In re* Paulsen, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994).

The Federal Circuit's decision in *Wang Lab v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767, 1773 (Fed. Cir. 1993) illustrates that a quite narrow definition of analogous prior art can be appropriate. See Patent Prosecution, *supra*, at Ch. 8, II.B.(3). In *Wang Labs*, even references discussing different types of computer memory devices were not necessarily reasonably pertinent to each other or the problem an inventor attempted to solve. The recent Supreme Court decision in *KSR* does not overturn this long-established precedent of the Federal Circuit.

Applicants submit that the Examiner has not explained in any meaningful way that the disclosures or alleged teachings of Sheikh and Richman are "reasonably pertinent" to the field of endeavor of the present Applicants or the subject matter specified in claim 1. Accordingly, the Examiner has failed to meet the burden of production and has not established a prima facie case of obviousness. Accordingly claim 1 and dependent claims 2-15 are allowable.

For the same reasons set forth in the Remarks immediately above, independent claim 16 and dependent claims 17-28, as well as independent claims 29 and 32-33, are also allowable.

Examiner Failed to Meet Burden of Persuasion for Prima Facie Case of Obviousness Because

Specified Elements Clearly are Missing From Cited References

Applicants respectfully assert that, even if the cited references are considered pertinent prior art for some reason, the Examiner clearly has failed to meet the burden of persuasion necessary to establish a prima facie case of obviousness. The Examiner has failed to explain how controlling internal computer boards of a computer (Sheikh) or configuring a computer's network adapter (Richman) has any reasonable connection to teaching or disclosing the use of data from a legacy surveillance system in an intelligent surveillance system as specified in claim 1. Further, the Examiner clearly has failed to explain how these two references could have a reasonable relation to each of the elements specified in claim 1. Clearly, the nomenclature of the cited references is not the same, except for the single term "legacy device", and the meanings of the terminology to one skilled in the relevant art clearly are far too different for the cited references to reasonably be considered relevant or pertinent to the claimed subject matter. Applicants respectfully submit that the term "legacy device" is taken out of context of the Sheikh reference. This type of rejection is clearly impermissible. In view of the foregoing, claim 1 and dependent claims 2-15 are allowable for these reasons.

For the same reasons set forth in the Remarks in the preceding paragraph, independent claim 16 and dependent claims 17-28, as well as independent claims 29 and 32-33, are also allowable.

Combined References Cannot Be Combined to Reject Claimed Subject Matter

Applicants submit that, even if the Examiner has established prima facie obviousness of claims 1-15, the combined references fail to disclose, teach, or suggest each element specified therein. It is unclear to Applicants how one of skill in the art would combine the references in any practical manner as suggested by the Examiner. For one reason, the Applicants are not skilled in the field of architecture of computers, as would be required in order to combine the two references in a functioning whole. Applicants respectfully submit that, quite clearly, even one of ordinary skill deemed to be in possession of the teachings of claim 1 would not be able to combine the teachings of Sheikh and Richman to obtain each of the elements specified in claim 1 as amended. There simply are no common elements of these references with the specified subject matter. The sheer complexity of resolving different terminologies would end such an attempt. For these reasons, claim 1 and dependent

claims 2-15 are allowable. Claims 2-15 are also allowable because of the additional subject matter specified therein.

For the same reasons set forth in the Remarks in the preceding paragraph, independent claim 16 and dependent claims 17-28, as well as independent claims 29 and 32-33, are also allowable.

Combined References Fail to Teach Claimed Subject Matter

Applicants submit that, even if the Examiner has established prima facie obviousness of claims 1-15, the combined references fail to disclose, teach, or suggest each element specified therein. Even if Sheikh and Richman are analogous prior art, the combination of these references does not teach or enable one of skill in the art to practice the subject matter specified in claim 1 as amended. It is unclear to Applicants how one of skill in the art would combine the references in any practical manner as suggested by the Examiner. For one reason, the Applicants are not skilled in the field of architecture of computers, as would be required in order to combine the two references in a functioning whole. Applicants respectfully submit that, absent the teachings of claim 1, the Examiner, or one of ordinary skill in the art, clearly would not be able to combine the teachings of Sheikh and Richman to obtain each of the elements specified in claim 1 as amended.

More particularly, Sheikh fails to disclose, teach or suggest the following limitations specified in claim 1, as amended:

- i. A method for collecting legacy data from a legacy surveillance system
- ii. transmitting the legacy data to an intelligent surveillance system
- iii. the legacy data including information from a plurality of legacy sensors
- iv. reading legacy output data, the legacy output data including a serial data string, the legacy output data being output from the legacy surveillance system without introducing a signal into the legacy surveillance system
- v. transmitting the legacy output data into a data capture application of an intelligent surveillance system without sending a signal to the legacy surveillance system
- vi. managing the legacy output data via the intelligent surveillance system.

Richman clearly fails to cure these deficiencies of Sheikh. The terminology of the cited references is so different from the terminology and subject matter of the present disclosure that the Applicants cannot realistically initiate a more elaborate discussion of how each reference is deficient. This matter is clear and obvious on its face.

For the above-specified reasons, claim 1 and dependent claims 2-15 are allowable. Claims 2-15 also are allowable because of the additional subject matter specified therein. For the same reasons set forth in the Remarks in the preceding paragraphs, independent claim 16 and dependent claims 17-28, as well as independent claims 29 and 32-33, are also allowable.

Combined References Teach Away From Claimed Subject Matter

Applicants submit that, even if the cited references can be combined as pertinent prior art, the combination of references combined as suggested by the Examiner actually teaches away from the subject matter specified in claim 1 and dependent claims 2-15. For example, both Sheikh and Richman allegedly teach internal architectural features of computers. This, perhaps, could teach one to internalize computer functions with onboard, internal equipment such as boards and adapters for internal control and interaction with the system operating system. Applicants submit that it is at least as likely as otherwise that Sheikh and Richman, if they teach anything understandable by one skilled in relevant art, in fact teach something about internal computer functions. Clearly, internal computer functions are not the subject matter of the present subject matter specified in claim 1 and dependent claims 2-15.

For the above-specified reasons, claim 1 and dependent claims 2-15 are allowable. Claims 2-15 also are allowable because of the additional subject matter specified therein. For the same reasons set forth in the Remarks in the preceding paragraphs, independent claim 16 and dependent claims 17-28, as well as independent claims 29 and 32-33, are also allowable.

Applicants Reiterate All Previous Arguments and Traverse All Grounds for Rejections

Applicants expressly incorporate herein all arguments previously set forth in the certain Amendment filed May 16, 2005, as such arguments may have applicability to the pending claims as presently amended. These arguments are explicitly set forth below.

Previous Rejections Under Section 112

The Examiner previously rejected claims 29-31 "under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant reads as the invention, because the use of conditional statements using the word 'if' renders the claims unclear. Applicants submit that claims 29 has been amended to overcome this rejection. Claims 30-31 have been cancelled. Applicants request reconsideration of claim 29 as amended.

Claims 16-28

Claim 16 was rejected under 35 U.S.C. 103(a) as being unpatentable over Sheikh in view of Richman. Claim 16 as amended specifies the following limitations which are not disclosed, taught or suggested by Sheikh:

- i. An apparatus for collecting legacy data from a legacy surveillance system and transmitting the legacy data to an intelligent surveillance system
- ii. a server associated with the intelligent surveillance system
- iii. an output port connected to a legacy surveillance system to transmit from the legacy surveillance system a legacy output signal including a serial data string
- iv. a transmission channel connected between the output port and the server for transmitting the legacy output signal from the output port to the server without introducing a signal into the legacy surveillance system.

Richman clearly does not cure the deficiencies of Sheikh. Sheikh discloses a system by which individual components of a server are monitored and controlled through independent, programmable microcontrollers interconnected through a microcontroller network. Richman discloses a system for configuring a network adapter of a computer without user intervention.

For the above-specified reasons, claim 16 and dependent claims 17-28 are allowable. Claims 17-28 also are allowable because of the additional subject matter specified therein.

Claims 6 and 20

Claims 6 and 20 were rejected under 103(a) over the combination of Sheikh, Richman and Evans. Applicants traverse this rejection. Richman and Evans do not cure the deficiencies of Sheikh as described above for independent claims 1 and 16, respectively. Because claims 6 and 20 are dependent, respectively, upon claims 1 and 16, each is allowable for the reasons previously set forth for claims 1 and 16. Claims 6 and 20 are also allowable because of the additional subject matter specified therein. Claim 6 specifies open database connectivity and reading the output data in the database. Claim 20 specifies open database connectivity and a transmitter device which receives output data from the database. Even if Evans discloses or teaches, as asserted by the Examiner, an open database, this teaching certainly does not cure the previously described deficiencies of Sheikh and Richman regarding claims 1 and 16. Applicants also assert that one skilled in the art would not have knowledge of the teachings of Evans. In view of the foregoing arguments, claims 6 and 20 are allowable.

Claim 7

Claim 7 was rejected under 103(a) over the combination of Sheikh, Richman and Brockway. Applicants traverse this rejection. Richman and Brockway do not cure the deficiencies of Sheikh as described above for independent claim 1. Because claim 7 is dependent upon claim 1, claim 7 is allowable for the reasons previously set forth for claim 1. Claim 7 also is allowable because of the additional subject matter specified therein. Claim 7 specifies, among other elements, reading output data transmitted to the server. Even if Brockway discloses or teaches, as asserted by the Examiner, transmitting data to a server for the server to read and manage data, this teaching certainly does not cure the previously described deficiencies of Sheikh and Richman regarding claim 1. Applicants also assert that one skilled in the art would not have knowledge of the teachings of Brockway. In view of the foregoing arguments, claim 7 is allowable.

Claims 9, 10, 23 and 24

Claims 9, 10, 23 and 24 were rejected under 103(a) over the combination of Sheikh, Richman and Hollenberg. Applicants traverse this rejection. Richman and Hollenberg do not cure the deficiencies of Sheikh as described above for independent claims 1 and 16, respectively. Because claims 9 and 10 are dependent upon claim 1, and claims 23 and 24 are dependent upon claim 16, each is allowable for the reasons previously set forth for claims 1 and 16, respectively. Claims 9, 10, 23 and 24 also are allowable because of the additional

subject matter specified therein. Even if Hollenberg discloses or teaches, as asserted by the Examiner, activation of devices by signals from other nodes on a network, this teaching certainly does not cure the previously described deficiencies of Sheikh and Richman regarding claims 1 and 16. Applicants also assert that one skilled in the art would not have knowledge of the teachings of Hollenberg, for the same reasoning previously set forth regarding claim 1. In view of the foregoing arguments, claims 9, 10, 23 and 24 are allowable.

Claims 15 and 19

Claims 15 and 19 were rejected under 103(a) over the combination of Sheikh, Richman and Hauck. Applicants traverse this rejection. Richman and Hauck do not cure the deficiencies of Sheikh as described above for independent claims 1 and 16. Because claims 15 and 19 are dependent, respectively, upon claims 1 and 16, each is allowable for the reasons previously set forth for claims 1 and 16. Claims 15 and 19 also are allowable because of the additional subject matter specified therein. Even if Hauck discloses or teaches, as asserted by the Examiner, using a printer port as an output port, this teaching certainly does not cure the previously described deficiencies of Sheikh and Richman regarding claim 1. Applicants also assert that one skilled in the art would not have knowledge of the teachings of Hauck for the reasons set forth previously regarding claim 1. In view of the foregoing arguments, claims 15 and 19 are allowable.

Claim 29

Claim 29 was rejected under 35 U.S.C. 103(a) as being unpatentable over Lotito in view of Gaul, Neill, and Richman. The applicants traverse this rejection and renew all arguments set forth regarding claim 29 in the preceding response filed May 16, 2005 in this case. Applicants also submit that claim 29 has been amended to further specify elements which are not disclosed or taught by the combined references.

Claim 32

Claim 32 was rejected under 35 U.S.C. 103(a) as being unpatentable over Klayh in view of Richman. Currently amended claim 32 specifies: A method for capturing in an intelligent surveillance system legacy data from a legacy surveillance system; the intelligent surveillance system having an intelligent surveillance system server, the legacy surveillance system including a plurality of legacy sensors; the legacy data including legacy device data of the legacy sensors; said method comprising:

associating a database with the intelligent surveillance system server;
creating a socket connection to the intelligent surveillance system server from the legacy surveillance system;
reading the legacy data from the legacy surveillance system via the created socket;
and
storing the legacy data in the database associated with intelligent surveillance system server.

Neither Klayh nor Richman disclose these elements. Rather, Klayh discloses a system for distributing and redeeming loyalty points and coupons, while Richman discloses a system for configuring a network adapter of a computer without user intervention.

For these reasons, claim 32 is allowable.

Claim 33

Claim 33 was rejected under 35 U.S.C. 103(a) as being unpatentable over Roy in view of Richman. Currently amended claim 33 specifies, among other elements:

A method for managing in an intelligent surveillance system legacy data from a legacy surveillance system, the legacy data including a legacy alert signal, the intelligent surveillance system including an intelligent surveillance system server. Neither Roy nor Richman discloses these elements.

Claim 33 also specifies: receiving at the intelligent surveillance system server the legacy alert signal from the legacy surveillance system. Neither Roy nor Richman specifies these elements.

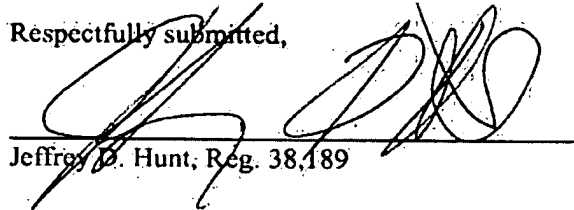
Claim 33 further specifies: viewing by a selected camera a location of the legacy alert signal, the camera being selected for viewing based on proximity of the camera to the location. Clearly, Roy nor Richman specifies these elements.

Regarding the above elements of claim 33, the cited reference Roy discloses a video observation system. Richman discloses a system for configuring a network adapter of a computer. Because Richman and Roy do not disclose teach or suggest any of these elements, claim 33 is allowable.

Conclusion

Applicants respectfully submit that claims 1-29 and 32-33 are in condition for allowance and, accordingly, request issuance of a Notice of Allowance. The requested amendment is believed to place the application in condition for allowance or in better condition for appeal, and its entry is therefor respectfully solicited. If the Examiner has any other matters which pertain to this Application, the Examiner is encouraged to contact the undersigned to resolve these matters by Examiner's Amendment where possible. The Commissioner is hereby authorized to withdraw or credit any filing fees associated with this Response from Deposit Account No. 50-4128.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Jeffrey D. Hunt", written over a horizontal line.

Jeffrey D. Hunt, Reg. 38,189

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